IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8175 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE SHARAD D.DAVE

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT - Petitioner(s)

Versus

VALJIBHAI KHENGARBHAI CHRISTIAN - Respondent(s)

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Appearance :
MS Rita Chandarana AGP for Petitioner(s) : 1,
MR YV SHAH for Respondent(s) : 1,
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CORAM : HONOURABLE MR.JUSTICE SHARAD D.DAVE

Date : 27/10/2005

CAV JUDGMENT

1.By filing this petition, the petitioner – State of Gujarat has challenged the judgment and award dated 7.9.1999 passed by the Presiding Officer, Labour Court,

Godhra in Reference (LCG) No.532 of 1990 by which the petitioner is directed to reinstate the respondent – workman in service to his original post with continuity of service.

2. Being aggrieved and dissatisfied by the said judgment and award dated 7.9.1999 passed by the Presiding Officer, Labour Court, Godhra in Reference (LCG) No.532 of 1990, the petitioner has preferred the present petition under Article 226/227 of the Constitution of India.

3. Heard the learned A.G.P., Ms.Rita Chandarana for the petitioner and Mr.Y.V.Shah, learned advocate for the respondent. I have also perused the material placed on record of this petition.

4. Having heard the learned advocates for the parties and having perused the material on record, it appears that this Court (Coram: P.K.Sarkar,J) had admitted the matter on 26.07.2000 and had stayed the operation and implementation of the impugned judgment and award. The said interim relief was confirmed by this Court (Coram : P.B.Majmudar, J) on 27.08.2001.

5. It can be seen from the record that the respondent workman was working as Chokidar on daily rated basis and his services were came to be terminated from

1.1.1988. Ultimately, the respondent – workman raised the industrial dispute which was numbered as Reference (LCG) No. 532 of 1990. After hearing the learned advocates for the parties and appreciating the evidence on record, the Presiding Officer, Labour Court, Godhra, by judgment and award dated 7.9.1999 directed the petitioner to reinstate the respondent – workman on his original post with continuity of service. As stated above, the said judgment and award dated 7.9.1999 had been stayed by this Court as back as on 26.07.2000.

6. The Labour Court has come to the conclusion that without following the provisions of the Industrial Disputes Act, 1947 (“the Act” for short), the respondent workman has been retrenched and no notice or compensation for retrenchment has been paid to the respondent workman. It is required to be noted that since the respondent – workman was entitled to the protection under the Act, the said protection could not be denied to him on the ground that he was a daily rated worker. It is not the case of the petitioner that while terminating the services of the respondent – workman, the provisions of the Act have been complied with and in that view of the matter, the termination of the services of the respondent – workman cannot be

upheld and has to be set aside. It is pertinent to note here that the services of the respondent – workman were terminated way back in 1988 and till date 17 years have elapsed. Under the circumstances, I am not inclined to direct reinstatement of the respondent – workman but considering the facts and circumstances of the case, the petitioner is directed to pay the consolidated sum of Rs.30,000/- (Rupees thirty thousand only) to the respondent – workman in lieu of reinstatement. It is clarified that this amount is being paid by way of full and final settlement of all the claims of the respondent – workman. The said amount shall be paid within two months from today.

7. Under the circumstances, the impugned judgment and award dated 07.09.1999 passed by the Presiding Officer, Labour Court, Godhra in Reference (LCG) No. 532 of 1990 is quashed and set aside, subject to the aforesaid directions. This petition is disposed of accordingly. Rule discharged. Interim relief granted earlier stands vacated.

(Sharad D.Dave,J)

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